

Regular Session, 2003

HOUSE BILL NO. 1810

BY REPRESENTATIVES BEARD AND SHAW

CRIME: Criminalizes human cloning

1 AN ACT

2 To amend and reenact R.S. 40:1299.36, 1299.36.1, and 1299.36.2 and to  
3 repeal Section 3 of Act No. 788 of the 1999 Regular Session of the  
4 Legislature, relative to human cloning; to prohibit human cloning; to  
5 provide for definitions; to provide for exceptions; to provide for  
6 criminal penalties; to repeal the termination date of provisions that  
7 prohibit human cloning; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1299.36, 1299.36.1, and 1299.36.2 are hereby  
10 amended and reenacted to read as follows:

11 §1299.36. Legislative intent; findings

12 A. It is the intent of the legislature to protect the health and  
13 welfare of the citizens of this state through a ban on the cloning of  
14 human beings ~~while encouraging the thorough and diligent evaluation~~  
15 ~~required by~~ in light of the profound medical, ethical, and social  
16 ~~questions~~ concerns raised by the possibility of human cloning.

17 B. The legislature finds that:

1           (1) At least one company has announced that they have  
2           successfully cloned a human being at the early embryonic state of life,  
3           and others have announced that they will attempt to clone a human  
4           being using the technique known as somatic cell nuclear transfer.

5           (2) Efforts to create human beings by cloning mark a new and  
6           decisive step toward turning human reproduction into a manufacturing  
7           process in which human beings are made in laboratories to preordained  
8           specifications and, potentially, in multiple copies.

9           (3) Creating cloned live-born children, "cloning to produce  
10          children", begins by creating cloned human beings at the embryonic  
11          stage of life, a process which some also propose as a way of creating  
12          human embryos for destructive research as sources of stem cells and  
13          tissues for possible treatment of other humans, "cloning for biomedical  
14          research".

15          (4) Many scientists agree that attempts at "cloning to produce  
16          children" pose a massive risk of either producing children who are  
17          stillborn, unhealthy, or severely disabled, and that attempts at "cloning  
18          for biomedical research" always results in the destruction of human  
19          beings at the embryonic stage of life when their stem cells are  
20          harvested.

21          (5) The prospect of manufacturing human life solely to be  
22          exploited or destroyed in these ways has been condemned on moral and  
23          ethical grounds by many as displaying a profound disrespect for human  
24          life.

25          (6) The distinction between "therapeutic cloning" and  
26          "reproductive cloning" is a false distinction scientifically because both

1 begin with the reproduction of a human being at the embryonic stage  
2 of life, one destined for implantation in the womb, one destined for  
3 destructive farming of its stem cells.

4 (7) It would be impossible to enforce a ban on "reproductive  
5 cloning" if "therapeutic cloning" is allowed because any government  
6 effort to prevent the implantation of an existing cloned embryo, or to  
7 prevent birth once implantation has occurred would raise substantial  
8 moral, legal, and practical issues.

9 (8) Biomedical research and treatments do not require the  
10 cloning and subsequent destruction of cloned human organisms because  
11 such research can be ethically pursued in other ways, including stem  
12 cells from adult organs and tissues such as bone marrow, blood and  
13 nerve tissue, umbilical cord blood and placental tissue, and stem cells  
14 from cell lines approved for federal funding.

15 C. Based on the above findings, it is the purpose of this Part to  
16 prohibit both cloning to produce children and cloning for biomedical.

17 §1299.36.1. Definitions

18 ~~As used in this Part, "clone" means the practice of creating or~~  
19 ~~attempting to create a human being by transferring the nucleus from a~~  
20 ~~human cell from whatever source into a human egg cell from which the~~  
21 ~~nucleus has been removed for the purpose of or to implant the resulting~~  
22 ~~product to initiate a pregnancy that could result in the birth of a human~~  
23 ~~being.~~

24 For purposes of this Part, the following terms have the following  
25 meanings:

1                   (1) "Asexual production" means human reproduction not  
2                   initiated by the union of oocyte and sperm.

3                   (2) "Human cloning" means asexual production, by somatic cell  
4                   nuclear transfer, of a new human organism that is, at all stages of  
5                   development, genetically virtually identical to a currently existing or  
6                   previously existing human being.

7                   (3) "Oocyte" means the human female germ cell (the ovum).

8                   (4) "Somatic cell" means a diploid cell (having a complete set  
9                   of chromosomes) obtained or derived from a living or deceased human  
10                  being at any stage of development.

11                  (5) "Somatic cell nuclear transfer" means introducing the  
12                  nuclear material of a human somatic cell (donor) into an oocyte (ovum)  
13                  whose own nucleus has been removed or inactivated, yielding a product  
14                  that has a human genetic constitution virtually identical to the donor of  
15                  the somatic cell.

16                  ~~§1299.36.2. Cloning of human beings; purchase or sale of ovum,~~  
17                  ~~zygote, embryo, or fetus for the purpose of cloning human~~  
18                  ~~beings, prohibited~~ Prohibitions

19                  A. ~~No person or entity, public or private, shall clone or attempt~~  
20                  ~~to clone a human being~~ intentionally or knowingly:

21                         (1) Perform or attempt to perform human cloning.

22                         (2) Participate in an attempt to perform human cloning.

23                         (3) Transfer, ship, or receive for any purpose a human organism  
24                         produced by human cloning, or any product derived from such human  
25                         organism.

1                    (4) Import for any purpose a human organism produced by  
2                    human cloning, or any product derived from such human organism.

3                    B. No person shall purchase or sell an ovum, zygote, embryo,  
4                    or fetus with the intent to ~~clone a human being~~ perform or attempt to  
5                    perform human cloning.

6                    C. This Section does not prohibit scientific research or a cell-  
7                    based therapy not specifically prohibited elsewhere by this Part,  
8                    including in vitro fertilization, the administration of fertility enhancing  
9                    drugs, research in the use of nuclear transfer or other cloning  
10                   techniques to produce molecules, DNA, tissues, organs, plants, or  
11                   animals other than human organisms.

12                   D. Whoever violates this Section shall be fined not more than  
13                   ten million dollars or imprisoned, with or without hard labor, for not  
14                   more than ten years, or both.

15                   Section 2. Section 3 of Act No. 788 of the 1999 Regular Session of the  
16                   Louisiana Legislature is hereby repealed in its entirety.

17                   Section 3. This Act shall become effective upon signature by the  
18                   governor or, if not signed by the governor, upon expiration of the time for bills  
19                   to become law without signature by the governor, as provided by Article III,  
20                   Section 18 of the Constitution of Louisiana. If vetoed by the governor and  
21                   subsequently approved by the legislature, this Act shall become effective on  
22                   the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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Beard, Shaw

HB No. 1810

**Abstract:** Prohibits human cloning and deletes the termination date of provisions that prohibit human cloning

Present law, relative to cloning, R.S. 40:1299.36 et seq., provides that it is the intent of the legislature to protect the health and welfare of the citizens of this state through a ban on the cloning of human beings while encouraging the thorough and diligent evaluation required by the profound medical, ethical, and social questions raised by the possibility of human cloning.

Proposed law provides instead that it is the intent of the legislature to protect the health and welfare of the citizens of this state through a ban on the cloning of human beings in light of the profound medical, ethical, and social concerns raised by the possibility of human cloning, but otherwise retains present law and adds legislative findings and based upon such findings prohibits both cloning to produce children and cloning for biomedical research.

Present law defines "cloning" as the practice of creating or attempting to create a human being by transferring the nucleus from a human cell from whatever source into a human egg cell from which the nucleus has been removed for the purpose of, or to implant, the resulting product to initiate a pregnancy that could result in the birth of a human being.

Proposed law deletes present law, and instead defines "asexual production", "human cloning", "oocyte", "somatic cell", and "somatic cell nuclear transfer".

Proposed law expands the prohibition of human cloning to include any person or entity, public or private, that intentionally or knowingly:

- (1) Performs or attempts to perform human cloning.
- (2) Participates in an attempt to perform human cloning.
- (3) Transfers, ships, or receives for any purpose a human organism produced by human cloning, or any product derived from such human organism.
- (4) Imports for any purpose a human organism produced by human cloning, or any product derived from such human organism.

Proposed law expands exceptions to include in vitro fertilization, administration of fertility enhancing drugs, certain techniques to produce organisms other than human embryos.

Proposed law retains provisions providing for penalties and disciplinary action for violations of present law.

Proposed law repeals §3 of Act No. 788 of the 1999 R.S.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:1299.36, 1299.36.1, and 1299.36.2; Repeals §3 of Act No. 788 of the 1999 R.S.)